

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

THOMAS ANDERSON,

Plaintiff,

v.

9:03-CV-1300

S. BANKS, Corrections Officer, and
M. GILMORE, Corrections Officer,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

THOMAS ANDERSON, Pro Se
Collins Correctional Facility
P.O. Box 340
Collins, New York 14034-0340

FOR THE DEFENDANT:

HON. ELIOT SPITZER
Office of the Attorney General
State of New York
615 Erie Boulevard West
Suite 102
Syracuse, NY 13204-2455

MARIA MORAN, ESQ.
Ass't Attorney General

NORMAN A. MORDUE, DISTRICT JUDGE

ORDER

The above matter comes to me following a Report-Recommendation by Magistrate Judge David E. Peebles, duly filed on the 21st day of March, 2005. Following ten days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

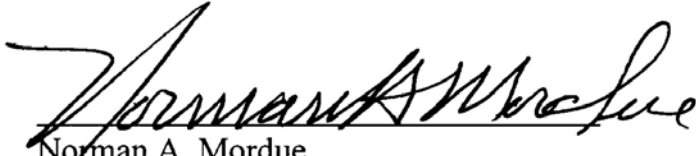
After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is

ORDERED, that:

1. The Report-Recommendation is hereby approved.
2. The defendants' motion to dismiss plaintiff's complaint is denied.
3. The Clerk of the Court shall serve a copy of this Order upon all parties and the Magistrate Judge assigned to this case.

IT IS SO ORDERED.

Dated: April 14, 2005
Syracuse, New York


Norman A. Mordue
U.S. District Judge